

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STUART PALLEY,

Plaintiff,

- against -

DUGGAL VISUAL SOLUTIONS, INC.,

Defendant.

Docket No. 17-cv-02691

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Stuart Palley (“Palley” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Duggal Visual Solutions, Inc. (“Duggal” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of seven (7) copyrighted photographs of forest fires in California owned and registered by Palley, a California-based photojournalist. Accordingly, Palley seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Palley is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 45 Hartford Drive, Newport Beach, California 92660. Palley's photographs have appeared in many publications around the United States.

6. Upon information and belief, Duggal is a corporation duly organized and existing under the laws of the State of New York, with a place of business at 29 West 23rd Street, New York, New York 10010. Upon further information and belief, Duggal is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Duggal has owned and operated a website at the following URL: www.duggal.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

7. Upon information and belief, in August and September 2014, and July 2015 through August 2015, Palley photographed forest fires in California (the "Photographs"). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Palley is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with the U.S. Copyright Office and were given Copyright Registration Numbers VA 2-036-508, VA 2-037-005 and VA 2-030-380, and pending Copyright Registration Number 1-4397944416. See Exhibit B.

B. Defendant's Infringing Activities

10. Upon information and belief, on or about September 2, 2015, Duggal ran an article on the Website entitled *Terra Flama: Stuart Palley's Stunning Wildfire Project*. See <http://duggal.com/terra-flama-stuart-palleys-stunning-wildfire-project/>. The article prominently featured the Photographs. A true and correct copy of the article is attached hereto as Exhibit C.

11. Duggal did not license the Photographs from Plaintiff for its article, nor did Duggal have Plaintiff's permission or consent to publish the Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DUGGAL)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Duggal infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Duggal is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the aforementioned acts of infringement by Duggal have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

17. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Duggal be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: April 14, 2017
Valley Stream, New York

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